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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,372	12/22/2003	Asko Vetclainen	KOLS.081PA	9337
<div><div>7590 Hollingsworth & Funk, LLC Suite 125 8009 34th Avenue South Minneapolis, MN 55425</div><div>11/27/2007</div></div>				
			EXAMINER	
			JONES, SCOTT E	
			ART UNIT	PAPER NUMBER
			3714	
			MAIL DATE	DELIVERY MODE
			11/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/743,372

Applicant(s)

VETELAINEN, ASKO

Examiner

Scott E. Jones

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted; or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the reply filed on August 31, 2007 in which applicant responds to the claim rejections and objection to the Declaration. Claims 1-28 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Perlman (U.S. 5,558,339).

The rejection as stated in Office Action, Paper No. 06012007 is retained and incorporated herein.

Perlman discloses an apparatus and method for linking multiple remote players of real-time games over a traditional telephone line. Perlman accomplishes this goal by having prospective players dial into a server which determines, based on a telephone number and information provided by a player, which players to connect to each other to play the game. Once this match is determined, both players are disconnected from the server, and one of the player's computers automatically dials the other player's phone number and establishes a direct connection via a traditional telephone line to play the game.

Perlman describes a player's phone number as an "address" or "network address" in a data network. However, due to privacy concerns, a player's phone number is not "explicitly"

Art Unit: 3714

shown to the opposing player. Rather, a screen name or handle, and identification code is sent and displayed by both computers. (Figures 3, 4, and 8, Column 10, lines 18-35, and Column 11, lines 20-49). Furthermore, players are able to communicate with each other during the game (Column 41, line 65-Column 42, line 56). See entire document.

Response to Arguments

4. Applicant's arguments filed August 31, 2007 have been fully considered but they are not persuasive with regards to the rejection to claims 1-28 under 35 U.S.C. 102(b) as being anticipated by Perlman (U.S. 5,558,339).

5. Applicant's arguments, see page 10 and the supplemental Declaration, filed August 31, 2007, with respect to the objection to the Declaration have been fully considered and are persuasive. The objection of the Declaration has been withdrawn.

6. Applicant alleges the rejection to claims 1-28 under 35 U.S.C. 102(b) as being anticipated by Perlman (U.S. 5,558,339) is improper because the Examiner has not "identified [the claimed limitations] in the requisite detail to support a § 102 rejection." Applicant's allegation is unfounded. The standard is 35 U.S.C. § 102(b) which states, "A person shall be entitled to a patent unless - (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States." Perlman meets this standard as Applicant's claimed invention was known as early as 1994.

7. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Instead, Applicant recites the claimed limitations and states Perlman does not disclose, teach, or suggest such features. However, Perlman is a base patent in the pertinent field and clearly discloses each

and every claim limitation. One only needs to read the reference to make this simple determination.

Additionally, Applicant alleges Perlman teaches away from the instant invention because Perlman does not teach sending an invitation to play a game via a request from one gaming device to another because Perlman has already identified that both users want to play the game and matches them using this information. The Examiner respectfully disagrees as Perlman's process requires that an invitation (phone call via modem) is sent to another player and may be accepted by the other player by answering the call to play the game. Sending an invitation to play the game via a request from one gaming device to another is fundamental to Perlman. Moreover, Applicant further alleges the rejection is improper because the Examiner has not pointed out each and every limitation in the reference. Again, one only needs to read the reference to make this simple determination.

Applicant alleges Perlman's device does not have a memory. Clearly, 1994 vintage personal computer's had memory to store information (See Fig. 18).

Applicant then recites limitations of the instant dependent claims and alleges Perlman does not disclose or teach such limitations. Applicant's allegation is without merit. In particular, regarding claims 6 and 8, predetermined time limits for receiving responses is at least disclosed at C14:51-C15:6; regarding claim 10, blocking gaming requests is disclosed at least in the call forwarding feature described at C29:39-C30:59; and regarding claims 11-13, the communication unit comprising a terminal of a cellular radio system, infrared transceiver, or a short-range radio transceiver is clearly disclosed at C29:14-31.

For the aforementioned reasons, the Examiner maintains the previous rejection.

Application/Control Number: 10/743,372

Page 5

Art Unit: 3714

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (571) 272-4438. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/743,372

Page 6

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott E. Jones/
Primary Examiner
Art Unit 3714

SEJ